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MEASURES TO IMPROVE THE SITUATION AND ENSURE THE HUMAN RIGHTS AND DIGNITY OF ALL MIGRANT WORKERS

Written statement submitted by Human Rights Advocates, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[3 March 1998]

STATUS OF THE WORKING GROUP ON THE INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

1. The number of migrant workers around the world has steadily increased over the past decade due to the impact of global economic restructuring, escalating poverty, and violent conflict. These individuals face abuse and discrimination in host countries. While resulting violations are many and varied, focusing on border violations may be a way to start advancing procedures for concrete protection of migrant workers.

2. Migrant workers crossing borders worldwide are often denied the basic rights to life and subjected to degrading treatment by border police and/or officials. These egregious abuses result from increased numbers of military and border patrol officials without adequate training. The lack of training increases the likelihood of confrontation and human rights violations against migrants crossing borders. Prevalent abuses take the form of unprovoked shootings, physical abuse, sexual abuse, humiliation, abuse by private persons, and "environmental deaths". Human Rights Advocates (HRA) has submitted reports on these violations in the past to the Commission (E/CN.4/1997/NGO/54).

3. Given that these human rights violations exist worldwide and host countries are proposing regressive legislation with little or no protection for migrant workers, it is imperative that immediate responsive action be taken to address them. However, as of December 1997, 19 years after the United Nations General Assembly established a working group to draft a treaty on the rights of migrant workers and members of their families, only nine countries have ratified the resulting convention, and two additional States have signed it.

4. Treaty bodies of the United Nations could address the problems of migrant workers worldwide; however, due to severe backlogs in reporting mechanisms, it is unrealistic that they would be able to focus on migrant worker issues specifically. The International Labour Organization (ILO), the organization with jurisdiction over work-related issues, is also unable to address violations against migrant workers. Because the process for raising complaints under the ILO structure requires that Governments, employers or workers' organizations raise the violations, migrant workers violations simply have not been considered. At this time, the Working Group of Intergovernmental Experts on the Human Rights of Migrants is the only body that can specifically address the human rights violations of migrants and their families. HRA also submitted information to the Working Group (E/CN.4/AC.46/1998/3/Add.35).

5. As the treaty on migrant workers is at present not in effect and there is no other body able to look at human rights violations affecting migrant workers, Human Rights Advocates supports and encourages the work of the Working Group, and believes it is critical to continue its work and strive for the treaty to go into effect.

Recommendations

6. HRA supports the continued efforts and work of the Working Group.

7. HRA recommends that the mandate of the Working Group be extended for a minimum of two years in order to fulfil the Commission's goal to strengthen the promotion, protection and implementation of human rights protection for migrant workers. Furthermore, it would be helpful to the work of the Working Group to include an expert from a receiving country.

8. HRA recommends that, in an effort to take advantage of the work done in drafting the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and in order to avoid duplicative debate, the Working Group work specifically with the definitions and standards elaborated therein. Use of the definitions and standards elaborated in the Convention would further focus the Working Group on the implementation of procedures for examining violations of the rights of migrant workers.

9. HRA supports the suggestion that the Working Group be given broader authority to take affirmative steps to examine violations of the rights of migrants according to existing international standards as set forth in the 1990 Convention (see E/CN.4/AC.46/1998/4, para. 95). In that context, HRA also suggests that the Working Group be given broader authority to create a procedure for addressing specific violations. HRA in its submission to the Working Group recommended that it should look to procedures developed by the Working Groups on Enforced or Involuntary Disappearances and on Arbitrary Detention for addressing specific violations. Those working groups developed procedures that may be useful for taking urgent action and investigating reliable allegations of violations occurring along the borders between nations.

10. HRA recommends that the Working Group seek ways to cooperate with other working groups and special rapporteurs working on similar issues. For example, the Working Group on Violence against Women is also looking at abuses confronted by migrant women. The Working Group on the Human Rights of Migrant Workers should ask for input from that Working Group on how it could support its work on that problem without duplication.

11. HRA recommends that the Working Group also focus on specific human rights abuses against the vulnerable (i.e. gender and child dimension) segment of migrant workers.

12. HRA recommends that the Working Group also look to the expertise and resources of non-governmental organizations, intergovernmental organizations and Governments to identify and prioritize key issues affecting migrant workers worldwide. In this context, the Working Group should consider the utility and efficacy of actively seeking assistance from intergovernmental organizations, such as the ILO, and NGOs in gathering and reviewing the

statistical and anecdotal data and evidence in keeping with the mandate from the Commission in resolution 1997/15 to "gather all relevant information from Governments and non-governmental organizations ... on the obstacles existing to the effective and full protection of the human rights of migrants". Taking resources into account, this may prove more efficient and cost-productive than a call for and creation of new follow-up questionnaires.

13. HRA further supports efforts to promote the ratification of the Convention, especially by receiving countries.